NO. 79-5853

IN THE
SUPREME COURT OF THE UNITED STATES

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MICHAEL RODAK, JR., CLERK

LEON DUNAGAN,

Petitioner,

vs.

THE PEOPLE OF THE STATE OF ILLINOIS,

Respondent.

BRIEF IN OPPOSITION TO THE
PETITION FOR WRIT OF CERTIORARI

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JURISDICTION

The jurisdictional requisites are adequately set forth in the Petition. However, as treated more fully in the argument contained herein, respondent does not believe that petitioner has shown any reason for this Court to exercise its sound judicial discretion to grant his Petition for Writ of Certiorari.

QUESTIONS PRESENTED FOR REVIEW

I. Whether the police had sufficient probable cause to arrest petitioner in his apartment, when they based their entry and arrest on a written statement obtained from a private citizen who had no reason to lie and whose statement was substantially corroborated by facts already revealed to the police?

II. Whether the evidence obtained subsequent to a lawful arrest is properly admissible at trial?

III. Whether it is proper to admit into evidence statements which are voluntary and obtained according to Miranda; and whether testimony of a witness regarding photographic identification of petitioner is properly admitted when the totality of the circumstances surrounding the identification does not give rise to a substantial likelihood of irreperable misidentification.

STATEMENT OF FACTS

Respondent wishes to add the following to petitioner's statement of facts. On December 26, 1971, Oscar Boyd was shot to death at the intersection of 63rd Street and Wabash Avenue. The petitioner, Leon Dunagan, was later arrested and indicted for murder. At a jury trial petitioner was found guilty of murder and sentenced for a term of from 50 to 100 years.

Richard Brunson had been attending a reunion of his high school class on the evening of December 26, 1971. Around 10:00 p.m. Brunson left the reunion and walked to where he had parked his red 1966 Volkswagen automobile. (R. 193) Upon discovering that his car was gone, Brunson returned to the party where he talked with Oscar Boyd. (R. 193) Then Brunson and Boyd, along with Barbara Abston, Norma Statum and Mary Williams, entered Boyd's Cadillac (R. 66, 129, 195) and headed west on 63rd Street. (R. 67, 129-131, 195)

At 63rd and Wabash Richard Brunson spotted his Volkswagen heading south on Wabash. (R. 196) After Brunson told his companions that he saw his car, Oscar Boyd stopped his car and backed it into the intersection of 63rd and Wabash thus blocking the path of the Volkswagon. (R. 70, 133, 197) As Boyd was backing into the intersection, Brunson observed four teen-aged blacks in the Volkswagen. (R. 197-198) He noted especially the face and upper torso of the driver. (R. 198)

As Boyd's Cadillac came to a halt, Brunson and Boyd alighted, as did the four occupants of the Volkswagen. (R 71-72, 134-135, 199) Barbara Abston and Richard Brunson saw the driver of the Volkswagen at this time, and they described him at trial as a male Negro approximately 6 feet tall, of medium build and with a medium brown complexion. He was wearing a dark leather coat or jacket, which appeared to Brunson to be brown in color, and a knit cap with a ball on the top. (R. 72, 200) Brunson also observed that the man had a chrome colored gun in his right hand as he got out of the Volkswagen. (R. 200, 349-350) At trial, Richard Brunson

identified the defendant, Leon Dunagan, as the driver of the red Volkswagen. (R. 201)

Immediately upon alighting from the Volkswagen, the four youths ran northeasterly in the direction of a housing project located at 6215 South Wabash. (R. 73, 135, 202) Meanwhile, Brunson and Boyd ran from the Cadillac toward the fleeing men. Oscar Boyd shouted, "Hey," as the petitioner was running north on the eastern sidewalk of Wabash. (R. 74, 201) At this time, the petitioner stopped turned around and raised his right arm. (R. 74, 203) Mary Williams, who was still in the front seat of the Cadillac, said to the other women, "Get down. He has a gun." (R. 75) Brunson testified that, at this time, the petitioner "briefly aimed and fired." (R 203) Brunson, Barbara Abston and Norma Tatum all heard a gunshot and saw Oscar Boyd fall to the pavement. (R. 75, 137, 203). As Boyd went down, the petitioner continued running and entered the housing project. (R. 204)

On the evening of December 28th, two days following the homicide, Investigator Duncan and his partner, Claude Wiley, went to a gasoline station at 63rd and Wabash where they saw one Reginald Brown with two or three other persons. (R. 811-812) Brown's companions fled when the officers approached, but Brown accepted an invitation to enter the squad car, and there he spoke with the officers. (R. 407, 813) The three drove to a Yellow Cab Company parking lot where Brown said that he had heard who had killed Oscar Boyd and that he would give a statement to that effect. (R. 815) In a written statement given that evening, Brown said that one Toby Harris told him that the petitioner had shot Oscar Boyd. (R. 871)

At trial, there was a discrepancy between what Investigator Duncan remembered about the conversation with Brown and what Investigator Wiley recalled. Duncan testified on cross-examination that he remembered talking with Brown on December 27th and that no written memorandum was made of the conversation. (R. 478, 493) Wiley later testifed, on the other hand, that he and Duncan spoke with Brown on December 28th (R 811, 1142), and that Wiley had a copy of Brown's written statement which had been misfiled among the officer's own case materials. (R. 734, 1144)

After speaking with Reginald Brown, Investigators Duncan and Wiley went to apartment 1002 in the housing project at 6215 South Wabash at approximately 9:00 p.m. on December 28th. (R. 406, 409) When the petitioner opened the door, the officers identified themselves and entered the apartment where they also saw the petitioner's mother and a young lady approximately 20 years old. (R. 406-407) The policemen informed Mrs. Dunagan that they wanted to take the petitioner to their office and speak to him about a shooting. (R. 407) Mrs. Dunagan agreed to allow her son to accompnay the officers. (R. 407)

As the petitioner and the two investigators were walking from the building to the officers' car, 15 to 20 sniper shots were fired at them from the building. (R. 408, 971-972) The three reached the squad car however, and proceeded to Area 2 homicide headquarters where Officer Wiley discovered that he had been shot (R. 409). Investigator Duncan took the petitioner into the headquarters building and then brought Wiley to the hospital. (R. 409).

At approximately 9:30 p.m. Investigator Duncan returned to Area 2 headquarters and began talking with the defendant. (R. 410) He first advised the petitioner of his constitutional rights (R. 410-411), after which the defendant said he wanted to talk to his mother before answering any questions. (R. 412) Duncan allowed the petitioner to use a telephone, and the petitioner, after making two phone calls, said he had talked with his mother and now wanted to talk about the shooting. (R. 412)

The petitioner told Investigator Duncan that, on the night of December 26, 1971, he received a car from one Michael Harding and then picked up John Shaw, Dean Montgomery, and James Massey. (R. 414) AFter driving through several southern suburbs, the four returned to the city where Massey asked to be let out at 63rd and Wabash. (R. 414) As they were approaching that intersection, a Cadillac backed up

in front of the Volkswagen they were in. The four youths began running to the northeast when one of the persons from the Cadillac cried out "Halt." The petitioner reached into his pocket and pulled out a .38 caliber automatic pistol which he fired once at the person who had called "Halt." (R. 414-415) The petitioner continued running until he reached the tenth floor of the building at 6215 South Wabash where he disposed of his weapon in an incinerator. (R. 416)

Investigator Duncan called Assistant State's Attorney Thomas J. Cullinan, at approximately 1:00 a.m. on December 29, 1971. (R. 947) Mr. Cullinan arrived at Area 2 headquarters, and, after informing the petitioner of his constitutional rights, he asked the petitioner if he wanted to give a statement. The petitioner replied that he did. (R. 948). Cullinan offered the petitioner coffee and a sandwich, and then asked the petitioner his age. When the petitioner replied that he was 17, Mr. Cullinan asked the petitioner if he wanted his mother present. The petitioner responded that he had talked to his mother earlier, that she had to go to work early in the morning, and that he did not want to bother her anymore. (R. 950)

The Assistant State's Attorney called Claude Cole, a court reporter, who arrived at the police station at approximately 3:00 a.m. (R. 951, 1118) At 3:35 a.m. the petitioner gave a statement to Mr. Cullinan in the presence of Investigator Duncan and Claud Cole, (R. C60-C69, 418, 951, 1119) Investigator Cuncan testified that this statement was immediately typed by Mr. Cole and read to the petitioner by Mr. Cullinan. (R. 419, 424) Claud Cole testified, however, that the statement was typed later and was not read to the petitioner in Cole's presence. (R. 1121) The petitioner did not sign the statement. (R. C69, 424, 1006)

During the trial there was testimony from Richard Brunson that on December 27, 1971, he went to police headquarters at 11th and State where he viewed three books of photographs but made no identification. (R. 274, 278) Two or three days after the shooting, Brunson viewed photographs at Area 2 headquarters and identified a picture of the defendant. (R. 275) Brunson did not remember any of the officers who showed him photographs, and testified that he never again saw the officers. (R. 212, 287) Brunson testified also that the picture he identified at Area 2 headquarters was the same picture taken by court reporter, Claude Cole, at the time the petitioner gave his statement. (R. 307-308)

During the course of a hearing on the petitioner's post-trial motion, a police report, dated December 28, 1971 and signed by Officer Alex McCrae, was introduced for the first time. (R. 1450) This report indicated that Richard Brunson "looked at pictures all day," that he "likes" Terrill Dunagan, and that he picked out "two look alikes." (R. 1450-1451)

The Illinois Appellate Court, First District, in affirming petitioner's conviction of murder found on the facts that the police officers had probably cause to enter petitioner's apartment and arrest him without a warrant; that petitioner's statement to the police was voluntary; and that under the totality of the circumstances witness Brunson's photographic identification of petitioner did not give rise to a substantial likelihood of irreperable misidentification.

REASONS FOR DENYING THE WRIT OF CERTIORARI

I.

THE POLICE HAD PROBABLE CAUSE TO ENTER PETITIONER'S APARTMENT AND ARREST HIM ON A MURDER CHARGE, AS THEY RELIED ON INFORMATION GIVEN TO THEM BY A PRIVATE CITIZEN WHO HAD NO REASON TO LIE AND WHO WAS SUBSTANTIALLY CORROBORATED BY FACTS ALREADY REVEALED TO THE POLICE.

The petitioner maintains that it was illegal for the officers to arrest petitioner in his apartment without an arrest warrant. However, neither the Illinois statutes nor case law requires an arrest warrant when there is probable cause that the arrestee had committed an offense. Ill. Rev. Stat. 1971, Sec. 107-2(c), empowers an officer to arrest when he "has reasonable grounds to believe that the person is committing or has committed an offense." Similarly, the Illinois Supreme Court has approved of a warrantless arrest of a person in his apartment when probable cause exists. People v. Johnson, 45 Ill.2d 283, 259 N.E.2d 57)1970).

Where a statute authorizes arrest upon probable cause, as does section 107-2(c), an arrest made under such statute is not invalid because of a failure to obtain an arrest warrant. U.S. v. Watson, 423, U.S. 411, 96 S.Ct. 820 (1976); Cf. U.S. v. Santana, 427 U.S. 38, 96 S.Ct. 2406 (1976). The fact that police may have had time to obtain an arrest warrant is immaterial. This Court said in U.S. v. Watson, 423 U.S. 411, 96 S.Ct. 820 at 824, "The necessary inquiry, therefore, was not whether there was a warrant or whether there was time to get one but whether there was probable cause for the arrest." Thus, the issue in this Petition is whether there was probable cause to make the arrest.

There is no single factor which establishes whether or not probable cause exists. Rather, "whether or not probable cause for an arrest exists in a particular case depends upon the totality of the facts and circumstances known to the officers when the arrest was made." People v. Clay, 55 Ill.2d 501, 504, 304 N.E.2d 280, 282 (1973). In the present case, the arresting officers knew that an offense had been committed, and they had reasonable grounds to believe that petitioner had committed that offense.

At the time the officers took a statement from Reginald Brown, they had already spoken to Richard Brunson and Barbara Abston, both of whom were able to describe the man who shot Oscar Boyd. The officers knew that there had been an automobile theft and a shooting and that the assailant ran to the building at 6215 South Wabash. Reginald Brown's reliability was strengthened by the fact that he corroborated everything that the officers already knew. Brown said that there was a shooting, that a stolen car was involved in the shooting, and the offender was 16 or 17 years old. (R. 825-826) The only uncorroborated information supplied by Brown was the petitioner's name and the fact that the petitioner lived in apartment 1002 at 6215 South Wabash, the same building which witnesses saw the offender run to after the shooting. (R. 817, 825-826)

The fact that the prior reliability of Reginald Brown had not been established is insignificant since Brown was not a paid informer. "The usual requirement of prior reliability which must be met when police act on information from professional informers does not apply to information supplied by private citizens." People v. Kaprelian, 6 Ill. App.3d 1066, 1072, 286 N.E.2d 613, 618 (1st Dist. 1972). In this case, it clear from the facts that the unknown informer's reliability was independently corroborated by the witnesses to the offense.

In deciding the question of probable cause in a particular case the courts deal with probabilities and are not disposed to be unduly technical. These probabilities are the factual and practical considerations of everyday life on which reasonable men, not legal technicians, act. Draper v. United States, 358 U.S. 307, 79 S.Ct. 329 (1959).

In People v. Clay, supra, the Illinois Supreme Court held, at 304 N.E.2d 282, the informant's information was corroborated by the statements of the witnesses to the crime. Such independent corrobration of an informer's information is sufficient to establish probable cause to arrest a suspect.

The federal courts are in full accord with the Illinois courts in holding that probable cause exists for a warrantless arrest based upon an informer's tip when it is shown that the informer is reliable or the information is corroborated by facts either presently known to the police or revealed to them in subsequent investigations instigated by the tip. U.S. v. Gonzalez, 555 F.2d 308 (2d Cir. 1977); U.S. v. Worthington, 544 F.2d 1275, (5th Cir. 1977), rehearing denied 548 F.2d 356 (1977); U.S. v. Jackson, 533 F.2d 314 (6th Cir. 1976).

Petitioner also claims that the arrest was illegal because Brown's information was based on hearsay. It is not material that the information given to the police was based on hearsay. What is significant is that there was a substantial basis for crediting the hearsay. People v. Williams, 27 Ill.2d 542, 544, 190 N.E.2d 303, 304 (1963). Brown's information was credible because it was corroborated by what the officers already knew. Furthermore, the informer's reliability was enhanced by the fact that he gave a signed statement rather than an anonymous oral tip. See, Draper v. U.S., supra.

In view of the foregoing, the petitioner's contention that his arrest was illegal is without basis in either fact law and should be dismissed.

II.

EVIDENCE OBTAINED SUBSEQUENT TO A LAWFUL ARREST IS ADMISSIBLE AT TRIAL, AND, EVEN IF THE ARREST WAS UNLAWFUL, THE SUBSEQUENT EVIDENCE WAS PURGED OF ANY ILLEGALITY.

Petitioner claims that "but for" the illegal arrest and seizure, his coat, identification by Brunson, and statements to the police would never have been obtained and admitted into evidence at trial.

Even if petitioner's arrest was illegal, it does not follow that all evidence obtained subsequent to the arrest, including confessions and identifications, is inadmissible. Decisions of the Illinois courts and of this Court all indicate that the taint contributed by the initial illegal arrest can be purged from subsequent evidence by factors which weaken the relationship between the arrest and later-acquired evidence. The proper method of determining admissibility of evidence obtained subsequent to an illegal arrest involves a consideration of several factors affecting the relationship between the arrest and the questioned evidence. One factor to be considered is whether the evidence comes about by an exploitation of the illegality in the arrest. People v. Pettis, 12 Ill. App.3d 123, 298 N.E.2d 372 (1st Dist. 1973). Three other factore were listed in Brown v. Illinois, 422 U.S. 590, 603, 95 S.Ct. 2254 (1975), where the admissibility of a confession following an illegal arrest was at issue. "the temporal proximity of the arrest and the confession, the presence of intervening circumstances, and, particularly, the purpose and flagrancy of the official misconduct are all relevant."

The rule proffered by the petitioner is "but for" test, i.e., if the evidence would not have come to light but for the illegal arrest, the evidence should be excluded. The "but for" rule has been explicitly rejected by both Illinois Courts and the United States Supreme Court. People v. Pettis, supra, 12 Ill. App.3d 123, 126, 298 N.E.2d 372, 374; Brown v. Illinois, supra, 422 U.S. 590, 603, 95 S.Ct. 2254, 2261.

In the present case, a consideration of all the relevant factors indicates that, even if the petitioner's arrest were unlawful, the evidence which the petitioner contends was improperly admitted was actually free from any taint of illegality. Any illegality in the arrest was neither flagrant nor exploited, and there were intervening circumstances between the arrest and the questioned evidence. The petitioner's statement in the present case was given away from the scene of the arrest and only after repeated Miranda warnings and two telephone calls by the petitioner.

Even further removed from the arrest were the identification by Richard Brunson. The arrest was not made for the purpose of obtaining a photographic identification of the petitioenr. The identification was only incidently related to the arrest.

Since the petitioner's arrest was based on specific information from a private citizen, whose credibility was enhanced by corrobaration from facts which the arresting officers already knew, the arrest was with probable cause. Even if the arrest were illegal, however, the relation between it and subsequent evidence was so attenuated that the evidence was purged of any taint of illegality.

In view of the foregoing, the petitioner's contention that this evidence was tainted as being the fruits of an unlawful arrest is without merit and should be dismissed.

III.

PETITIONER'S STATEMENT WAS VOLUNTARY AND, ALSO, WAS OBATINED ACCORDING TO MIRANDA; AND, TESTIMONY REGARDING A WITNESS'S PHOTOGRAPHIC IDENTIFICATION OF PETITIONR WAS PROPERLY ADMITTED WHERE THE TOTALITY OF THE CIRCUMSTANCES SURROUNDING THE IDENTIFICATION DID NOT GIVE RISE TO A SUBSTANTIAL LIKELIHOOD OF IRREPERABLE MISIDENTIFICATION.

A. Petitioner's Statements To Police

Petitioner claims that his statement to the police were involuntary because he was a juvenile and was entitled to have his mother presnet during the questioning.

When Investigators Duncan and Wiley entered the petitioner's apartment at 9:00 p.m. on December 28, 1971, the petitioner's mother agreed to allow them to take the petitioner to their office for questioning. (R. 407) At Area 2 headquarters Investigator Duncan informed the petitioner of his Miranda rights and asked the petitioner if he wished to discuss the shooting (R. 411). The petitioer was 17 years old at the time (R. 950, 964), replied that he first wanted to speak with his mother, and Duncan permitted him to use a telephone. (R. 412) After making two telephone calls, the petitioner said that he had talked to his mother and that he wanted to talk about the shooting. (R. 412) The petitioner then gave Investigator Duncan an oral account of the shooting. (R. 413-416)

Assistant State's Attorney, Thomas J. Cullinan, began taking a statement from the petitioner at approximately 3:30 a.m. on December 29th. (R. 1119) After informing the petitioner of his Miranda rights, Cullinan asked about the presence of the petitioner's mother. The petitioner indicated that he had spoken with his mother that night and that his mother would "take care of anything she could" the next morning. (R. 964) The petitioner proceeded to give a statement which was recorded by a court reported and read into evidence at trial (R. 964-974). The written, unsigned statement itself was not allowed into evidence. (R. 1303)

A consideration of the record shows that at the time he gave his statement, the petitioner waived any right he may have had to have his mother present. The petitioner told Investigator Duncan that he had spoken to his mother and still wanted to talk about the shooting. (R. 412) Later, the Assistant State's Attorney asked the petitioner if his mother wished to be present. The petitioner's only response was that his mother had to be at work early in the morning and that she would come later during the day (R. 964). The petitioner never asked that the interrogation be postponed until his mother arrived and never hesitated to speak without his mother present. Therefore, he should not now be allowed to assert that his statement was involuntary on these grounds.

Furthermore, Illinois courts have stated that a statement of a minor is not rendered inadmissible by a failure to have a parent present or even by the failure to notify a parent that the minor is in custody. In re Bizzle, 36 Ill. App.3d 321, 343 N.E.2d 633 (1st Dist. 1976); and People v. Murphy, 17 Ill. App.3d 477, 308 N.E.2d 235 (1st Dist. 1974). Rather, the proper procedure to determine the voluntariness of a statemetnt is to consider the totality of all the relevant circumstances. In re Lamb, 61 Ill.2d 383, 388, 336 N.E.2d 753, 756 (1975). In the present case, the petitioner was given repeated Miranda warnings, and he said that he understood them. He was offered coffee and a sandwich (R949), was allowed to make telephone calls, was asked about the presence of his mother, and was not mistreated. The petitioner's claim that his statement was inconsistent with the known facts is groundless. On the contrary, the statement is substantially

corroborated by all the witnesses to the shooting.

The record indicates that the petitioner never asked that his mother be present, that the petitioner never suggested that questioning should cease, and that the statement was given voluntarily.

B. Photographic Identification Of Petitioner

Petitioner contends that the trial court erred in allowing an impermissibly suggestive identifcation procedure of petitioner into evidence.

Richard Brunson testified, over defense objection, that he viewed three books of photographs in police headquarters on December 27, 1971 (R. 274). He stated that he was unable to identify anyone in those pictures as the slayer of Oscar Boyd. (R. 274) Two or three days after the offense, Brusnon viewed photographs at Area 2 headquarters and identified the petitioner's picture (R. 275, 286). At trial Brunson testified that People's exhibit No. 6, the photograph of the defendant taken by the court reporter on December 29, 1971, was the picture which he identiifed at Area 2 headquarters (R. 308). None of the police officers who testified was able to recall showing photographs to Richard Brunson (R. 249, 1090, 1148), and Mr. Brunson could not recall which officer showed him photographs. (R. 287)

A pre-trail idenfification will be set aside only if the procedure was "so impermissibly suggestive as to give rise to a very substantial likelihood of irreparable misidentification." Simmons v. United States, 390 U.S. 377, 384, 88 S.Ct. 967, 971, 19 L.Ed.2d 1247 (1968). In evaluating the likelihood of misidentification, courts will consider such factors as the witness's original opportunity to view the offender, the accuracy of the witness's description of the criminal, the certaintity of the identication, and length of time between the crime and the idenfication. Neil v. Biggers, 409 U.S. 188, 199, 93 S.Ct. 375, 382, 34 L.Ed.2d 401 (1972). Furthermore, the burden is on the defendant to show that the identification procedure was suggestive. People v. Jackson, 12 Ill. App.3d 789, 793, 299 N.E.2d 142, 144 (1st Dist. 1973).

Even if testimony of Mr. Brunson's photographic identification was errounecusly admitted, such error was certainly harmless beyond a reasonable doubt. Where other competent evidence establishes the guilt of the defendant beyond a reasonable doubt, the verdict must be affirmed. People v. Watkins, 34 Ill. App.3d 369, 374, 340 N.E.2d 92, 97 (1st Dist. 1975). Any error in the identifcation procedure is harmless beyond a reasonable doubt when the petitioner has given a statement admitting his involvement or when there is othere competent identification testimony. People v. Prim, 53 Ill.2d 62, 70, 289 N.E.2d 601, 606 (1972); People v. Franklin, 41 Ill. App.3d 637, 640 354 N.E.2d 593 595 (1st Dist. 1976).

The trial court did not error in refusing to grant a new trial based on the discovery of a police report after the trial. Petitioner states that this issue is in accord with Brady v. Maryland, 373 U.S. 83, 83 S.Ct. 1194 (1963), which stands for the principle that suppression by the prosecution of evidence favorable to the accused upon request violated due process where such evidence is material either to guilt or punishment.

The police report that was withheld stated that on December 28, 1971, Brunson looked at pictures the entire day, and he picked three pictures. He liked the picture of Terril Dunagan and also picked two look-alikes.

Brunson testified during the trial that he viewed photographs in police headquarters on December 27, 1971, but could not identify Boyd's assailant.

The report does not impeach Brunson's testimony concerning his identification of petitioner. Brunson testified that he did not identify any photographs when he went to the police station. Even though the police report stated that he "likes" someone and picked two "look-alikes" does not make the report inconsistent with Brunson's testimony. These statements were not material to the guilt or innocence of petitioner, nor was the evidence favorable to him. Brunson had given a description of petitioner prior to looking at the photographs, and the record indicates that several other people testified that the driver of the Volkswagen was the man

who fired the shot. The police report was not a material factor in determining petitioner's guilt and therefore was not a ground for a new trial.

C O N C L U S I O N

For the foregoing reasons respondent respectfully prays this Court to deny the Petition for Writ of Certiorari.

Respectfully submitted,

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N O T I C E

TO: J. Samuel Tenenbaum
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PLEASE TAKE NOTICE that on March 6, 1980, I have filed with the Clerk of the United States Supreme Court ten (10) copies of the attached Brief in Opposition to the Petition for Writ of Certiorari.

WILLIAM J. SCOTT
Attorney General
State of Illinois

BY: _____
Thomas E. Holum
Assistant Attorney General
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Chicago, Illinois 60601

The undersigned being duly sworn on oath, deposes and states that a copy of the attached Notice and Brief was served upon the above named party on March 6, 1980 by depositing such copy in the United States mail at 188 W. Randolph Street, Chicago, Illinois.

_____

SUBSCRIBED AND SWORN TO
before me this 6th day
of March, 1980.

_____
NOTARY PUBLIC